

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

v.

21-CR-9 (JLS) (HKS)

LARRY D. JORDAN II,

Defendant.

DECISION AND ORDER

Defendant Larry D. Jordan II is charged in a five-count indictment with one count each of conspiracy to commit wire fraud and bank fraud, in violation of 18 U.S.C. § 1349; bank fraud, in violation of 18 U.S.C. §§ 1344(2) and 2; and engaging in monetary transactions with criminally derived property, in violation of 18 U.S.C. §§ 1957 and 2. Dkt. 36. Jordan is charged along with his co-defendant and brother, Sutukh El. On January 27, 2021, United States Magistrate Judge H. Kenneth Schroeder, Jr. was designated to hear and determine, and report and recommend on, all pre-trial proceedings under 28 U.S.C. §§ 636(b)(1)(A) and (B). Dkt. 38.

On March 25, 2022, as well as filing motions jointly with Defendant El, Defendant Jordan specifically moved to suppress his alleged post-arrest statements while in custodial interrogation at his residence and at the FBI Office. Dkt. 83, at 17-19. Jordan alternatively requested a hearing. *Id.* at 19. The Government responded on May 6, 2022. Dkt. 90.

Judge Schroeder heard oral argument on pretrial motions on August 31, 2022. *See* Minute Entry, August 31, 2022. At that proceeding, Judge Schroeder allowed Defendant Jordan until September 12, 2022 to file an affidavit in support of his suppression motion.¹ *Id.* The Government was scheduled to respond to any filings by Jordan no later than September 19, 2022. *Id.* Jordan did not file an affidavit or any other submission. On September 14, 2022, the Government filed a “Notice of Defendant’s Failure to File Affidavit.” Dkt. 101.

On October 5, 2022, Judge Schroeder issued a Report & Recommendation, (“R&R”) recommending that this Court deny the motion to suppress because Jordan failed to submit an affidavit as directed. *See generally* Dkt. 102. No party filed objections, and the time to do so has passed. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). As for non-dispositive matters, the district judge reviews appeals of a magistrate judge’s order under a clearly erroneous or contrary to law standard. Fed. R. Civ. P. 72(a); *see United States v. Kelly*, No. 18-CR-217-A, 2021 WL 1920777,

¹ While not relevant to the instant R&R, Judge Schroeder denied the remainder of Defendant’s discovery motions at the proceeding on August 31, 2022. Defendants’ motion regarding selective enforcement and prosecution remains pending with Judge Schroeder.

at *2 (W.D.N.Y. May 13, 2021) (reviewing non-dispositive orders denying motions for disclosure of certain information under a clearly erroneous or contrary to law standard of review).

This Court has reviewed the relevant record and Judge Schroeder's R&R. Based on that review, and in the absence of any objections, the Court accepts and adopts Judge Schroeder's recommendation to deny Jordan's motion to suppress (Dkt. 83).

CONCLUSION

For the reasons stated above and in the R&R, the Court DENIES Jordan's motion to suppress (Dkt. 83).

The Court refers this matter back to Judge Schroeder, consistent with the referral order at Dkt. 38, for further proceedings.

SO ORDERED.

Dated: October 25, 2022
 Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE